



**Provide for PACE organization and waiver of HMO laws - HB365**

**Sponsored by Representative Don Roberts at the request of the State Auditor's Office**

EXHIBIT 7 HUH

DATE 1-30-09

HB 365

**What is PACE?**

PACE is a "Program of all-inclusive care for the Elderly," which was created by the federal government and is administered by the Centers for Medicare/Medicaid Services (CMS) and state health departments (DPHHS). It typically serves "dual eligibles" (people who are eligible for both Medicaid and Medicare). The State Auditor's Office (SAO) does not regulate the Medicaid/Medicare piece, however, in some cases there are people who are not Medicaid eligible and they must pay the monthly fee themselves, in whole or in part. For instance, a "Medicare only" participant would pay \$3,096 per month. The PACE provider is paid a capitated payment and then assumes the risk for all health care for the PACE member--including home health care, nursing home care, hospitalization, physician services, etc. Because of the capitated payment system that PACE uses, the provider group offering this program does meet the statutory definition of a Health Maintenance Organization (HMO) contained in Chapter 31, Title 33. Pursuant to that code, HMO's must have a certificate of authority, and are subject to financial examination by the State Auditor's Office, as well as many other statutory requirements.

**What does this bill do?**

- It defines PACE Organization in Chapter 31, Title 33.
- It provides that the commissioner may waive the HMO licensing requirements for an approved PACE organization.
- The waiver must be renewed annually and includes review of audited financial statements and other activities of the PACE organization.
- It excludes PACE organizations from the definition of "managed care community network" in Title 53.
- If a PACE program does not receive a waiver, it would be required to obtain a certificate of authority to operate as an HMO.

**Why do we need this bill?**

Legislation is needed because the PACE program is limited in scope and its finances and operation are monitored by both CMS and DPHHS, waiver of licensure makes sense for PACE programs. This bill adds the additional consumer protection that requires PACE programs to submit audited financial statements to the SAO on a yearly basis. The SAO will then grant or deny a waiver based on whether or not the program remains fiscally sound and continues to be sanctioned by CMS and DPHHS. If a PACE program demonstrates any financial distress, the commissioner may revoke the waiver and the program would have to submit to the licensing process. PACE programs provide a valuable service to disabled and elderly people, and their existence should be encouraged.